

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**COLUMBIAN CHECMICALS
COMPANY, a foreign corporation**

Plaintiff,

vs.

**AIG SPECIALTY INSURANCE
COMPANY f/k/a CHARTIS
SPECIALTY INSURANCE COMPANY,**

Defendant.

CIVIL ACTION NO. 5:14-CV-00166

**MOTION TO PARTIALLY QUASH SUBPOENA AND PARTIAL RESPONSE TO
SUBPOENA ISSUED BY DEFENDANT AIG SPECIALTY INSURANCE COMPANY
f/k/a CHARTIS SPECIALTY INSURANCE COMPANY**

NOW COMES Fitzsimmons Law Firm PLLC, a non-party to this action, by and through Robert P. Fitzsimmons and Brent E. Wear, and submits the following Motion to Partially Quash Subpoena and Partial Response to Subpoena issued by Defendant AIG Specialty Insurance Company f/k/a Chartis Specialty Insurance Company (hereinafter referred to as "AIG").

As is more fully set forth in the attached Memorandum in Support, Fitzsimmons Law Firm PLLC, a non-party to this action, is moving to partially quash the subject subpoena pursuant to Federal Rule of Civil Procedure 45(d)(3), as Request Nos. 1, 2, 3, 4, 5 and 6 set forth in Attachment A to the subject subpoena imposes an undue burden upon this non-party to produce documents: (a) that are available from Columbian Chemicals Company (hereinafter "Columbian"), a party to this action; and (b) have already been provided to AIG by Columbian in response to Defendant AIG's discovery requests served in this litigation.

In support of this motion, counsel of record for Columbian has provided a Declaration, which is attached as Exhibit A to the attached Memorandum in Support, declaring that

Columbian has provided all documents within its possession, custody and/or control, consisting of more than fifteen thousand (15,000) pages, that are responsive to Request Nos. 1-6; there is no evidence that any responsive document has been destroyed or not included in Columbian's production; and there is no reason to believe that Fitzsimmons Law Firm would have any additional documents responsive to Requests Nos. 1-6. (See Declaration of Carmen R. Toledo, attached as Exhibit A to the Memorandum in Support). Accordingly, requiring the attorneys at Fitzsimmons Law Firm, a non-party to this action, to expend significant time and resources to review (and redact any private or protected information, including information protected from disclosure pursuant to HIPPA) and produce approximately fifteen thousand (15,000) pages of documents that have already been provided to AIG by Columbian during the course of discovery in this subject litigation, constitutes a substantial and undue burden that is not justified in light of the discovery exchanged between the parties to this civil action.

In further support of this motion, Fitzsimmons Law Firm PLLC has filed the accompanying Memorandum of Law in Support of this Motion to Quash demonstrating Request Nos. 1-6 impose an undue burden upon the movant and further incorporates the same by reference as if fully set forth herein.

With respect to Request Nos. 7, 8, 9 and 10 set forth in the subject subpoena, in an effort to be responsive and comply with the subpoena served, Fitzsimmons Law Firm, subject to the objections to Request Nos. 1-6 of the subpoena, and without waiving these objections, is providing a response to Request Nos. 7, 8, 9 and 10 and said responses are set forth in the attached Memorandum of Law.

WHEREFORE, Fitzsimmons Law Firm PLLC, a non-party to this action, by and through Robert P. Fitzsimmons and Brent E. Wear, respectfully request that this Court enter an

Order quashing Request Nos. 1, 2, 3, 4, 5 and 6 set forth in the subpoena issued by Defendant AIG, and for such other relief as this Court deems just and proper, including an award of fees and costs incurred in responding to the subject subpoena.

Respectfully Submitted,

Fitzsimmons Law Firm PLLC

By: 

Brent E. Wear
Of Counsel

Robert P. Fitzsimmons (1212)

Brent E. Wear (9754)

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CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of November, 2015, I electronically filed the foregoing ***MOTION TO PARTIALLY QUASH SUBPOENA AND PARTIAL RESPONSE TO SUBPOENA ISSUED BY DEFENDANT AIG SPECIALTY INSURANCE COMPANY f/k/a CHARTIS SPECIALTY INSURANCE COMPANY and MEMORANDUM IN SUPPORT*** with the Clerk of the Court by using the CM/ECF system, which will send notification of such filing to the following:

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Counsel for Plaintiff Columbian Chemicals Company

Respectfully Submitted,

Fitzsimmons Law Firm PLLC

By:



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